P.P. 19-6

SUPREME COURT OF THE UNITED STATES.

No. 11, Original.—October Term, 1938.

State of Texas, Complainant,
vs.
State of Florida, et al., Defendants. } In Equity.

[March 13, 1939.]

Mr. Justice Stone delivered the opinion of the Court.

This original suit, in the nature of a bill of interpleader, brought determine the true domicile of decedent as the basis of rival ims of four states for death taxes upon his estate, raises two prin- al questions: Whether this Court has jurisdiction of the cause l, if so, whether the report of the Special Master, finding that edent at the time of his death was domiciled in Massachusetts, uld be confirmed.

On March 15, 1937, this Court granted the motion of the State Texas for leave to file its bill of complaint against the States of rida and New York and the Commonwealth of Massachusetts, against decedent's wife, Mabel Harlow Green, and his sister, ty Sylvia Ann Howland Green Wilks, both alleged to be resi- ts of New York. The bill of complaint alleges that Edward H. R. en died at Lake Placid, New York, on June 8, 1936, leaving sur- ng him his wife and sister as his only heir and next of kin; he left a gross estate of approximately $44,348,500, and a net es- valued at $42,348,500, comprising real estate and tangible per- l property located in Texas, New York, Florida and Massachu- , of an aggregate value of approximately $6,500,000, and in- ible personal property consisting principally of stocks, bonds securities, the paper evidences of most of which were located in York.

e bill of complaint alleges that decedent, at the time of his h, was domiciled in Texas, but that Florida, New York, and achusetts each asserts, through its taxing officials, that de- t was at the time of his death domiciled within it. It al- in detail that Texas and each of the defendant states main- and enforces a system of taxation upon the inheritance or suc-

cession of the estates of decedents domiciled within the state at death, under which laws real estate and tangible personal property located within the state and all intangibles, regardless of their situs, are subjected to the tax; that each of the four states asserts and proposes to exercise the right to tax the estate of decedent on the assumption that decedent was domiciled within it at the time of his death; and that certain judicial proceedings have been instituted in each of the four states for the administration of decedent's estate or some parts of it.[1] It is further alleged that none of the four states and no officer or representative of any state, except as already noted, has become a party to any of those proceedings, and that no state or its officer or representative will appear or become a party to any such proceedings instituted in any other state to fix or assess death taxes on decedent's estate, and that no judgment in any such proceeding will be binding on any state not a party to it; that each of the four states claims a lien for taxes and the right to collect a tax, based on decedent's alleged domicile within it, upon the tangibles located in the state and upon all decedent's intangibles wherever located, the total of such claims amounting to a sum far greater than the net value of the estate; that the amount of decedent's property located in Texas is negligible in amount and insufficient to pay its tax; and in the event that the states should obtain adjudications in their own or other courts in pending proceedings, or others instituted for the purpose of collecting the tax on the ground that decedent was domiciled elsewhere than in Texas, Texas would be deprived of its lawful tax. The bill prays that the Court determine whether decedent's domicile, for purposes of taxa-

[1] The allegations are that on July 28, 1936, decedent's wife was appointed temporary administratrix of decedent's estate in Texas on an allegation that Green had died intestate and was domiciled at death in Texas; that on August 1, 1936, a proceeding was begun by decedent's sister in the Surrogate's Court of Essex County, New York, for the probate of decedent's will and for her confirmation as the executrix named in the will, in which proceeding she alleged that decedent, a non-resident of New York, had died there, leaving personal property located in the state, and in which proceeding a temporary administrator was appointed and decedent's wife and the New York Tax Commissioner entered their appearances; that on August 31, 1936, decedent's wife commenced an action in the United States District Court for northern Texas against decedent's sister to determine the rights of the former in the estate of decedent by reason of an alleged antenuptial agreement which purported to exclude the wife from any interest in decedent's property; that on October 21, 1936, on application of the Massachusetts Commissioner of Corporations and Taxation, a special administrator of the estate of decedent was appointed by a Massachusetts probate court to take possession of and conserve decedent's property in that commonwealth; and that on January 4, 1937, the County Judges' Court of Dade County, Florida, appointed decedent's widow administratrix of the estate of her husband located in Florida.

ion, was in either of the defendant states and that particularly it
letermine and adjudicate that his domicile was in Texas and that it
lone has the right to assess and collect death taxes on decedent's
ntangibles.

The several defendant states, answering, admit that decedent's
state is insufficient to satisfy the total amount of the taxes
laimed. All deny that Green was domiciled in Texas, and by way
f counterclaim and cross-bill against the other defendants, each
serts that he was domiciled in it and that it is entitled to
ollect death taxes upon all of decedent's intangible property and
pon all his tangibles within the state. The answer of decedent's
ife admitted that he was domiciled in Texas and asserted that by
exas law she owned, as community property, one-half of substan-
lly all of decedent's estate acquired by him after their marriage,
e and clear of all death taxes. Pursuant to stipulation showing
t she had released all interest in decedent's estate, the suit was
nissed as to her by order of the Court on January 17, 1938. 302
S. 662. The answer of defendant Wilks, decedent's sister, denies
t Green was domiciled in Texas and asks the Court to determine
which of the defendant states he was domiciled for purposes of
ation.

n June 1, 1937, this Court appointed a Special Master, 301
S. 671, to take evidence, to make findings of fact and state con-
ions of law, and to submit them to this Court, together with his
ommendations for a decree. The Special Master has reported
findings, with certain evidentiary facts, and his finding that
dent at the time of his death was domiciled in the Common-
lth of Massachusetts, this latter conclusion being supported by
erate subsidiary findings. The case is now before us on excep-
s to the Special Master's conclusions of fact and subsidiary find
that decedent's domicile was in Massachusetts at the time of
leath.

SDICTION.

hile the exceptions do not challenge the jurisdiction of the
, the novel character of the questions presented and the duty
h rests upon this Court to see to it that the exercise of its
rs be confined within the limits prescribed by the Constitution
s incumbent upon us to inquire of our own motion whether
se is one within its jurisdiction. *Minnesota* v. *Hitchcock*,
S. 373, 382. By the Judiciary Article of the Constitution,

the judicial power extends to controversies between states, and this Court is given original jurisdiction of cases in which a state shall be a party. Art. III, § 2. The present suit is between states, and the other jurisdictional requirements being satisfied, the individual parties whose presence is necessary or proper for the determination of the case or controversy between the states are properly made parties defendant. Cf. *United States* v. *West Virginia*, 295 U. S. 463, 470. So that our constitutional authority to hear the case and grant relief turns on the question whether the issue framed by the pleadings constitutes a justiciable "case" or "controversy" within the meaning of the Constitutional provision, and whether the facts alleged and found afford an adequate basis for relief according to accepted doctrines of the common law or equity systems of jurisprudence, which are guides to decision of cases within the original jurisdiction of this Court. See *Robinson* v. *Campbell*, 3 Wheat. 212, 222, 223; *Pennsylvania* v. *Wheeling and Belmont Bridge Co.*, 18 How. 460, 462; *Irvine* v. *Marshall*, 20 How. 558, 564, 565; *Payne* v. *Hook*, 7 Wall. 425, 430.

Before the Constitution was adopted a familiar basis for the exercise of the extraordinary powers of courts of equity was the avoidance of the risk of loss ensuing from the demands in separate suits of rival claimants to the same debt or legal duty. *Almete* v. *Bettam*, Cary, 65 (1560); *Hackett* v. *Webb and Wilkes*, Finch 257 (1676); see 9 Viner Abr., 419-440; 1 Spence, The Equitable Jurisdiction of the Court of Chancery, 659; Maclennan, Law of Interpleader, 5 *et seq.* Since, without the interposition of equity, each claimant in pursuing his remedy in an independent suit might succeed and thus subject the debtor or the fund pursued to multiple liability, equity gave a remedy by way of bill of interpleader, upon the prosecution of which it required the rival claimants to litigate in a single suit their ownership of the asserted claim. A plaintiff need not await actual institution of independent suits; it is enough if he shows that conflicting claims are asserted and that the consequent risk of loss is substantial. *Evans* v. *Wright*, 13 W. R. 468; *Michigan Trust Co.* v. *McNamara*, 165 Mich. 200; *Webster* v. *Hall*, 60 N. H. 7; *Thompson* v. *Ebbets*, Hopk. Ch. 272 (N. Y.); *Horn* v. *Fox*, 61 N. Y. 264; *Yarborough* v. *Thompson*, 3 Sm. & M. (11 Miss.) 291, 294; 4 Pomeroy, Equity Jurisprudence (4th ed.) §§ 1319-1329, 1458-1482; Maclennan, *supra*, 119.

The peculiarity of the strict bill of interpleader was that the plaintiff asserted no interest in the debt or fund, the amount of which he placed at the disposal of the court and asked that the rival

claimants be required to settle in the equity suit the ownership of the claim among themselves. But as the sole ground for equitable relief is the danger of injury because of the risk of multiple suits when the liability is single, *Farley* v. *Blood*, 30 N. H. 354, 361; *Bedell* v. *Hoffman*, 2 Paige 199, 200; *Mohawk and Hudson R. R.* v. *Clute*, 4 Paige 384, 392; *Atkinson* v. *Manks*, 1 Cowen (N. Y.) 691, 703; Story, Equity Pleadings (10th ed.) §§ 291, 292, and as plaintiffs who are not mere stakeholders may be exposed to that risk, equity extended its jurisdiction to such cases by the bill in the nature of interpleader. The essential of the bill in the nature of interpleader is that it calls upon the court to exercise its jurisdiction to guard against the risks of loss from the prosecution in independent suits of rival claims where the plaintiff himself claims an interest in the property or fund which is subjected to the risk. The object and ground of the jurisdiction are to guard against the consequent depletion of the fund at the expense of the plaintiff's interest in it and to protect him and the other parties to the suit from the jeopardy resulting from the prosecution of numerous demands, to only one of which the fund is subject. While in point of law or fact only one party is entitled to succeed, there is danger that recovery may be allowed in more than one suit. Equity avoids the danger by requiring the rival claimants to litigate before it the decisive issue, and will not withhold its aid where the plaintiff's interest is either not denied or he does not assert any claim adverse to that of the other parties, other than the single claim, determination of which is decisive of the rights of all. *Pacific National Bank* v. *Mixter*, 124 U. S. 721; *Providence Sav. Life Assur. Soc.* v. *Loeb*, 115 Fed. 357; *Merchants National Bank* v. *Shubert Theatrical Co.*, 238 Fed. 225, 151 Fed. 247 Fed. 256; *Illingworth* v. *Rowe*, 52 N. J. Eq. 360; *Carter* v. *Carter*, 68 N. J. Eq. 24; 2 Story, Equity Jurisprudence (14th ed.) § 1440; Story, Equity Pleadings (10th ed.) § 297b; Chafee, Cases on Equitable Remedies, 75 *et seq.*; 3 Daniell, Chancery Pleading and Practice (6th Amer. Ed.) 1572; Maclennan, *supra*, 338 *et seq.*

When, by appropriate procedure, a court possessing equity powers in such circumstances asked to prevent the loss which might otherwise result from the independent prosecution of rival but mutually exclusive claims, a justiciable issue is presented for adjudication which, because it is a recognized subject of the equity procedure which we have inherited from England, is a "case" or "controversy", within the meaning of the Constitutional provision; and when the case is one prosecuted between states, which are the rival claimants, and the risk of loss is shown to be real and substantial,

the case is within the original jurisdiction of this Court conferred by the Judiciary Article. *See Nashville, C. & St. L. Ry.* v. *Wallace*, 288 U. S. 249, 261 *et seq.*, and cases cited.

Here it is conceded by the pleadings and upon brief and argument that the sole legal basis asserted by the four states for the imposition of death taxes on decedent's intangibles is his domicile at death in the taxing state. There is no question presented of a situs of decedent's intangibles differing, for tax purposes, from the place of his domicile, such as was considered in *New Orleans* v. *Stempel*, 175 U. S. 309; *Safe Deposit & Trust Co. of Maryland* v. *Virginia*, 280 U. S. 83; *Beidler* v. *South Carolina Tax Commission*, 282 U. S. 1, 8; *First National Bank* v. *Maine*, 284 U. S. 312, 331; *Wheeling Steel Corporation* v. *Fox*, 298 U. S. 193, 210; *First Bank Stock Corporation* v. *Minnesota*, 301 U. S. 234, 237, 238; *Long* v. *Stokely*, 175 Tenn. ——, probable jurisdiction noted, Nov. 14, 1938, *Graves* v. *Elliott*, 274 N. Y. 10, certiorari granted November 14, 1938. And no determination made here as to domicile can hereafter foreclose the determination of such questions by any court of competent jurisdiction in which they may arise. By the law of each state a decedent can have only a single domicile for purposes of death taxes, and determination of the place of domicile of decedent will determine which of the four states is entitled to impose the tax on intangibles so far as they have no situs different from the place of domicile. No relief is sought to restrain collection of the tax or to interfere with the determination of its amount by appropriate state procedure.

The Special Master has found that each of the four states in good faith asserts that the decedent was domiciled within it at his death; that prior to the commencement of these proceedings each state in good faith was preparing to enforce a lien on decedent's intangibles wherever located and would now be taking appropriate action but for these proceedings; and that the net estate is not sufficient to pay the aggregate amount of the taxes claimed by the states and by the federal government.[2] He has also found, as averred in

[2] The Special Master has found as follows: The net estate, after payment of debts and administration expenses other than death taxes, will amount to $36,137,335; and the tangible property taxable in the state of its situs is as follows:

Texas	$2,220.00
Florida	222,276.00
New York	1,583,221.00
Massachusetts	2,438,707.00

Decedent's intangibles at the time of his death had a value of $35,831,580. The paper evidences of decedent's intangibles were located outside of the

the pleadings, that none of the four states has become or will consent to become a party to any proceedings for determining the right to collect the tax in any other state; that the right of Texas to assert its tax lien and to prosecute its claim for taxes with success is in jeopardy and that it is without adequate remedy save in this Court.

The risk that decedent's estate might constitutionally be subjected to conflicting tax assessments in excess of its total value and that the right of complainant or some other state to collect the tax might thus be defeated was a real one, due both to the jurisdictional peculiarities of our dual federal and state judicial systems and to the special circumstances of this case. That two or more states may each constitutionally assess death taxes on a decedent's intangibles upon a judicial determination that the decedent was domiciled within it in proceedings binding upon the representatives of the estate, but to which the other states are not parties, is an established principle of our federal jurisprudence. *Thormoon* v. *Frame*, 176 U. S. 350; *Overby* v. *Gordon*, 177 U. S. 214; *Burbank* v. *Trust*, 232 U. S. 162; *Baker* v. *Baker, Eccles & Co.*, 242 U. S. 394; *Texas* v. *Stimmer*, 248 U. S. 115, 120, 121; *Worcester County Trust Co.* v. *Riley*, 302 U. S. 292, 299. And a judgment thus obtained is binding on the parties to it and constitutionally entitled to full faith and credit in the courts of every other state. *Milwaukee County* v. *White Co.*, 296 U. S. 268. The equity jurisdiction being founded on avoidance of the risk of loss resulting from the threatened prosecution of multiple claims, the risk must be appraised in the light of

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...es of Texas, Florida, and Massachusetts. "The aggregate value of the ...res of stock in and obligations of corporations and associations organized ...having a principal place of business in Texas, Massachusetts and Florida, re...ctively, and of the obligations of persons residing in said States and of the ...gations of said States and political subdivisions thereof, together with the ...e of the real estate and tangible property in Texas, Massachusetts and ...rida, respectively, is less than the amount of the tax claimed by each of said ...es and the amount of such tax claimed by Texas, Massachusetts, and Flor... respectively, greatly exceeds the value of the property subject to the jur...tions of their respective Courts and from which the tax might be collected ...y proceeding in said Courts." The Special Master found that the death ...s due to the United States, and due to each state, if its contentions be sus...ed, are as follows:

United States	$17,520,987
Texas	4,685,057
Florida	4,663,857
New York	5,910,301
Massachusetts	4,947,008
Total	$37,727,213

...exceeds the total net estate by the sum of $1,389,877. In addition the ... of New York asserts a claim for unpaid personal income taxes of ...,827.

the circumstances as they are in good faith alleged and shown to exist at the time when the suit was brought. Cf. *Clark* v. *Wooster*, 119 U. S. 322; *Rice & Adams* v. *Lathrop*, 278 U. S. 509; Maclennan, *supra*, 132 *et seq.* In this case, as will presently be noted, the relations of decedent to each of the demanding states was such as to afford substantial basis for the claim that he was domiciled within it, with fair probability that the claim would be accepted and favorably acted upon if there were no participation by the other states in the litigation. *See New Jersey* v. *Pennsylvania*, 287 U. S. 580; *Hill* v. *Martin*, 296 U. S. 393; *Dorrance's Estate*, 309 Pa. 151, certiorari denied, 287 U. S. 660, 288 U. S. 617; *In re Dorrance*, 115 N. J. Eq. 268; *Dorrance* v. *Martin*, 116 N. J. Law 362, certiorari denied, 298 U. S. 678. Cf. *Matter of Trowbridge*, 266 N. Y. 283. In addition the facts most essential to establishing that attitude and relationship of person to place which constitute domicile were in this case obscured by numerous self-serving statements of decedent as to his domicile, which, because made for the purpose of avoiding liability for state income and personal property taxes levied on the basis of domicile, tended to conceal rather than reveal the true relationship in this case. Taken as a whole the case is exceptional in its circumstances and in the principles of law applicable to them, all uniting to impose a risk of loss upon the state lawfully entitled to collect the tax.

We think that the Special Master's finding of jeopardy is sustained; that a justiciable "case" between the states is presented; and that a cause of action cognizable in equity is alleged and proved. The fact that no relief by way of injunction is sought or is recommended by the Special Master does not militate against this conclusion. While in most causes in equity the principal relief sought is that afforded by injunction, there are others in which the irreparable injury which is the indispensable basis for the exercise of equity powers is prevented by a mere adjudication of rights which is binding on the parties. This has long been the settled practice of this Court in cases of boundary disputes between states. *Louisiana* v. *Mississippi*, 202 U. S. 1; *Arkansas* v. *Tennessee*, 246 U. S. 158; *Georgia* v. *South Carolina*, 257 U. S. 516; *Oklahoma* v. *Texas*, 272 U. S. 21; *Michigan* v. *Wisconsin*, 272 U. S. 398; *New Jersey* v. *Delaware*, 291 U. S. 361. In the case of bills of peace, bills of interpleader and bills in the nature of interpleader, the gist of the relief sought is the avoidance of the burden of unnecessary litigation or the risk of loss by the establishment of multiple liability

when only a single obligation is owing. These risks are avoided by adjudication in a single litigation binding on the parties.

While courts of equity in such suits may and frequently do give incidental relief by injunction to secure the full benefits of the adjudication and to terminate the litigation in a single suit, they are not bound to do so and their adjudication of the conflicting claims is not any the less effective as res judicata because not supplemented by injunction. We do not doubt that when the equity powers of the Court have been invoked it has power in its discretion to give such incidental relief by way of injunction as will make its determination the effective means of avoiding risk of loss to any of the parties by reason of the asserted multiple tax liability. But the plenary effect of its decision as res judicata, and considerations of convenience in the levying of the tax by the usual state procedure, make it unnecessary and undesirable that the Court should proceed beyond adjudication. The fact that the Court, for reasons of policy or convenience, does not exercise the power which it possesses and which has been traditionally exercised in like cases between private suitors does not deprive the suit of its character as a case or controversy cognizable by the Court in an original suit. See *Fidelity National Bank & Trust Co.* v. *Swope*, 274 U. S. 123, 132, 133, 134; *Nashville, C. & St. L. Ry.* v. *Wallace*, *supra*.

DOMICILE.

The Special Master took voluminous testimony in each of the four states, recording every available fact having any bearing on the issue of decedent's domicile. After an exhaustive study of the evidence the Special Master has prepared elaborate subsidiary findings in which he has stated what he considers to be the essential facts of decedent's life which, taken together, were the controlling factors in his arriving at the conclusion that decedent, at the time of his death, was domiciled in the Commonwealth of Massachusetts.

In considering and weighing the evidence the Special Master concluded that there was no local law peculiar to any of the states with respect to the essential fact elements which go to establish domicile, and that the rule in each of the states defining domicile was substantially that of the common law. Texas, since Green in the earlier part of his life lived for a large part of his time in that state and frequently proclaimed it to be his legal residence, places great emphasis on the common law rule that when one has once

acquired a domicile in one place does not lose it by mere residence elsewhere without the intention to make the new place of residence a domicile in the sense of a permanent home. The dominant status, as they were all places in which decedent lived for considerable periods of time during the latter part of his life, and as they were all places with which he thus became more intimately associated, place greater emphasis on "home" as the substantial equivalent of domicile as the term is defined in the American Law Institute's Restatement of Conflict of Laws, § 11, where it is said: "A home is a dwelling place of a person, distinguished from other dwelling places of that person by the intimacy of the relation between the person and the place. . . . In determining whether a dwelling place is a person's home, consideration should be given to:

"1. The physical characteristics;
"2. The time he spends therein;
"3. The things he does therein;
"4. The persons and things therein;
"5. His mental attitude towards the place;
"6. His intention when absent to return to the place;
"7. Elements of other dwelling places of the person concerned."

The Special Master, while not completely adopting either of the tests proposed, nevertheless finds that both support the conclusion. We accept the Special Master's findings of fact and his conclusion that the decedent at the time of his death was domiciled in Texas therein. In the Matter of Lee, 177 Misc. 1, 29 N. Y. S. 2d 1

Dallas and then about 1896 or 1897 leased an apartment in that city. Later he purchased a building there which he remodelled and occupied as a dwelling until 1911, when the building was sold. After that he rented a friend to rent a room for him in Terrell, Texas, admittedly for the purpose of preserving his right to vote in Texas. The room was never occupied by him nor were any of his personals ever there, except a box containing a pair of trousers and a coat. He also owned a two hundred acre experimental farm near Terrell where there were living quarters which he occasionally used. The farm was afterwards sold, and from 1911 on he had no dwelling place in Texas except his private railroad car, which was sold with the road in 1927-1928. Upon his removal to New York in 1911 all of the best furniture in the Dallas residence was packed and shipped to New York for use in his dwelling there. His library of books on scientific subjects was given to the Dallas Public Library. At the time of his death his only real property in Texas consisted of some considerable lots pertaining to the railroad which were appraised at $2,500.

During the period of his residence in Texas, aside from his active interest in the management of the railroad he became interested in scientific and farm experimentation. He also became active in Texas politics, was a Texas delegate to the Republican National Convention at St. Louis, and became Chairman of the Republican State Executive Committee, serving in that capacity for four years, and upon solicitation until 1907. In 1904 the nomination for Governor of Texas on the Republican ticket was offered him, but he declined the nomination upon the insistence of his mother. He was appointed a colonel upon the Texas Governor's Staff and served in that capacity until January, 1911. From 1911 until until 1929 he lived in Texas in winter and summer residences.

Having financially empowered himself so he was attached to the state and to the people. With his resolutions and his substantially all deeds, papers, and legal documents he described himself as of Terrell, Texas and instructed his executors and other managers and his attorneys in New York, Massachusetts and Florida, to execute in all instances legal documents that Terrell was his legal residence. He maintained that residence until 1929. In his will, executed in 1928, in his application for a passport issued in 1927, and

monthly basis. The apartments were furnished by the hotels, decedent's furniture, pictures, and personal belongings, much of which he had brought from Texas, remained at 5 West 90th Street until 1921, when most of them were removed to decedent's place at Round Hills, Massachusetts. In 1928 the remainder was sent to Round Hills and the New York house demolished.

During the last few years of his life his apartment in New York was used only as a temporary stopping place on his trips north and south. At his death the family belongings in the apartment consisted of some of his mother's letters, a portion of his stamp collection, his interest in which had been slight since 1927, some clothing of Mrs. Green's, and a few personal belongings worth less than $1,000. His tangible personal property in New York at the time of his death consisted principally of his collection of jewels, coins, currency and stamps, having an aggregate value of $1,561,223.

yachting trip in 1917 he determined to develop the prop-
a large country estate and build there an imposing resi-
ce that in view and with the consent and approval of his
egan to develop the property in the fall of that year by
g land, constructing breakwaters, wharves, water tanks,
dust, greenhouses and workmen's cottages. From then
development of the property was his principal interest
ation. While the work was going forward decedent spent
s his yacht or at a hotel in the vicinity. In July of 1921
the treaty for occupancy, and from then until shortly be-

pleader. This only serves to emphasize the inappropriateness o utilizing a remedy invented to settle private controversies of limite scope to the resolution of conflicting governmental interests.

Jurisdictional doubts inevitably lose force once leave has bee given to file a bill, a master has been appointed, long hearings hav been held, and a weighty report has been submitted. And s were this the last as well as the first assumption of jurisdictio by this Court of a controversy like the present, even serious doubt about it might well go unexpressed. But if experience is any guide the present decision will give momentum to kindred litigation an reliance upon it beyond the scope of the special facts of thi case. To be sure, the Court's opinion endeavors to circumscrib carefully the bounds of jurisdiction now exercised. But legal doc trines have, in an odd kind of way, the faculty of self-generating extension. Therefore, in pricking out the lines of future develop ment of what is new doctrine, the importance of these issues may make it not inappropriate to indicate difficulties which I have not been able to overcome and potential abuses to which the doctrine is not unlikely to give rise.

I am authorized to say that Mr. Justice BLACK concurs in these views and in the conclusion that the bill should be dismissed.

SUPREME COURT OF THE UNITED STATES.

No. 11, Original—October Term, 1938.

The State of Texas, Complainant,
vs.
The State of Florida, the State of New York, The Commonwealth of Massachusetts, and Hetty Sylvia Ann Howland Green Wilks.

[May 15, 1939.]

DECREE.

This cause came on to be heard on the pleadings, evidence, and the exceptions filed by the parties to the Report of the Special Master, and was argued by counsel.

The Court having dismissed Mabel Harlow Green as a party defendant to the suit on January 17, 1938 (302 U. S. 662), pursuant to the stipulation filed by the parties, it is now here ordered, adjudged and decreed as follows:

1. The Report of the Special Master is confirmed.

2. The domicile of Edward Howland Robinson Green at the time of his death, June 8, 1936, was in fact and in law within the Commonwealth of Massachusetts and not within the State of Texas, the State of Florida, or the State of New York.

3. The cause will be retained upon the docket for such further action as may be necessary and proper and the parties or any of them may at any time hereafter apply for relief as they may be advised.

And it is further ordered that the costs in this case, including the compensation and expenses of the Special Master shall be paid one-fifth each by the State of Texas, State of Florida, State of New York, Commonwealth of Massachusetts, and Hetty Sylvia Ann Howland Green Wilks.

A true copy.

Test:

Clerk, Supreme Court, U. S.